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September 25, 2001

**BY HAND DELIVERY**

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Room TW-A325  
Washington, DC 20554

Re: Celulares Telefónica, Inc.'s Petition for Limited Waiver of Section  
20.18(g) of the Commission's Rules and Updated Phase II E911  
Report in CC Docket 94-102


Dear Secretary Salas:

Please find enclosed an original and five copies of Celulares Telefónica, Inc.'s Petition for Limited Waiver of Section 20.18(g) of the Commission's Rules and Updated Phase II E911 Report submitted in CC Docket No. 94-102.

Please date-stamp and return one of the enclosed copies to us, via our messenger.

Please call me at (202) 842-8895 with any questions or concerns regarding this submission.

Sincerely,

  
Timothy R. Hughes

TRH

Enclosure

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SEP 25 2001

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
Revision of the Commission's Rules ) CC Docket No. 94-102  
To Ensure Compatibility with Enhanced )  
911 Emergency Calling Systems )

To: Wireless Telecommunications Bureau

**CELULARES TELEFONICA, INC.'S PETITION FOR  
LIMITED WAIVER OF SECTION 20.18(g) OF THE COMMISSION'S RULES  
AND UPDATED PHASE II E911 REPORT**

Celulares Telefónica, Inc. ("CTI"), by its undersigned counsel and pursuant to Section 1.3 of the Commission's Rules,<sup>1</sup> hereby requests a limited waiver of Section 20.18(g) of the Commission's Rules with respect to the October 1, 2001 deadline for implementing Enhanced 911 Phase II service.<sup>2</sup> CTI, the CMRS affiliate of Puerto Rico Telephone Company, Inc. ("PRTC"), also submits to the Commission its modified plans for implementing Phase II enhanced E911 service in Puerto Rico pursuant to 20.18(i) of the Commission's rules.<sup>3</sup> Specifically, CTI notifies the Commission of its decision to deploy a network-assisted Global Positioning System/Advanced Forward Link Trilateration ("AGPA/AFLT") handset solution for Enhanced 911 Phase II location technology.

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<sup>1</sup> 47 C.F.R. § 1.3.

<sup>2</sup> 47 C.F.R. § 20.18(g).

<sup>3</sup> 47 C.F.R. § 20.18(i). The Commission determined that carriers may make good faith changes in their plans even after the filing of their implementation reports, including changes in ALI technologies. See Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Third Report and Order, 14 FCC Rcd 17388, 17428 (¶ 89) (1999).

In its initial Implementation Report filed on November 9, 2000, CTI informed the Commission that it intended to deploy a network-based approach to the Phase II requirements.<sup>4</sup> Since the filing of its initial Implementation Report, however, it has become obvious to CTI that currently available network-based technologies are inaccurate and unreliable. Accordingly, CTI has altered its plans to employ a handset-based approach to the Phase II requirements. While CTI now believes that the AGPA/AFLT handset-based solution will provide the greatest and most reliable location capabilities, as well as presenting fewer technological problems, CTI nevertheless states that Phase II-capable handsets and the corresponding network upgrades will not be commercially available by the October 1, 2001 deadline established by the Commission. Thus, for reasons outside of its control, CTI is unable to comply with the Commission's rules regarding Phase II deployment.

Given the unavailability of Phase II-capable handsets and corresponding network upgrades, CTI respectfully requests that the Commission grant the following waiver conditions: (1) extension of the Phase II E911 implementation deadlines and handset milestones through November 1, 2002; and (2) approval of the following revised deadlines for implementing Phase II-compliant handset activations: 25% of new activations by July 31, 2002; 50% of new activations by March 31, 2003; 100% of new activations by December 31 2003; and 95% of embedded base by December 31, 2005. In the event that Phase II-capable handsets and network upgrades become readily available

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<sup>4</sup> See E911 Phase II Implementation Report of Celulares Telefónica, Wireless Telecommunications Bureau Guidelines for Waivers for Handset Based Approaches to Wireless Enhanced 911 Phase II Automatic Location Identification Requirements, CC Docket No. 94-102, at 2 (Nov. 9, 2000).

prior to CTI's proposed timeframes, CTI will revise its implementation deadlines accordingly.

**I. UPDATED PHASE II E911 REPORT**

CTI's November 9, 2000 Phase II E911 Implementation Report stated that the company had chosen and actively was pursuing a network-based solution to Phase II requirements. In pursuit of a network-based solution, CTI worked with True Position Wireless Location Systems ("True Position") to develop a network-based location system. Specifically, CTI envisioned that the True Position system would be implemented as an overlay network to CTI's existing communications network. CTI's work with True Position and its review of tests performed by Verizon Wireless generated serious concerns regarding the accuracy and reliability of True Position's proposed network-based solution. In addition to concerns regarding accuracy, it became apparent that many of the necessary hardware and software components required for the implementation of a network-based solution would not be available for testing and deployment in advance of the October 1, 2001 Phase II E911 deadline.

Given the technological shortcomings and general unavailability of CTI's preferred network-based solution, and after reviewing other possible handset-based solutions, CTI has determined that the AGPS/AFLT handset solution is the optimal approach to implementing Phase II. AGPS/AFLT promises accuracy that is far superior to the network-based technology originally chosen by CTI. Moreover, AGPS/AFLT promises to provide better overall coverage with respect to the varied terrain of Puerto Rico.

## II. REQUEST FOR LIMITED WAIVER

Although CTI is persuaded that AGPS/AFLT is the optimal solution to the Phase II requirements, CTI will not be able to meet the Commission's current deadline for Phase II compliance. Simply put, the network upgrades and Phase II-capable handsets necessary to implement AGPS/AFLT will not be available in time to comply with Commission's deadline. CTI therefore seeks a limited waiver of Section 20.18(g) of the Commission's Rules to deploy its preferred handset-based solution on a timeframe that comports with the release of the necessary technology.

The Commission's waiver standard dictates that "good cause" for a waiver must be demonstrated and that only "special circumstances warrant a deviation from the general rule, and such a deviation will serve the public interest."<sup>5</sup> In the Phase II context, the Commission has recognized that the Commission may waive a rule "where waivers are founded upon an 'appropriate general standard,' 'show special circumstances warranting a deviation from the general rule' and where 'such deviation will serve the public interest.'"<sup>6</sup> Moreover, the Commission has acknowledged that Phase II

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<sup>5</sup> Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Fourth Memorandum Opinion and Order, 15 FCC Rcd 17442, 17457 (¶ 43) (E911 Fourth MO&O) (citing Northeast Cellular Tel. Co. v. FCC, 897 F.2d 1164, 1166 (D.C. Cir. 1990); WAIT Radio v. FCC, 418 F.2d 1153, 1159 (D.C. Cir. 1969), cert. denied, 409 U.S. 1027 (1972)).

<sup>6</sup> Public Notice, "Wireless Telecommunications Bureau Outlines Guidelines For Wireless E911 Rules Waivers For Handset-Based Approaches To Phase II Automatic Location Identification Requirements," DA 98-2631 (rel. Dec. 24, 1998).

deployment may be delayed beyond the Commission-mandated deadline of October 1, 2001 due to “technology-related issues or exceptional circumstances.”<sup>7</sup>

CTI’s limited waiver request complies with the waiver standards articulated in the above-cited rules, Commission precedent, and orders and public notices issued in the ongoing E911 proceeding (CC Docket No. 94-102). Indisputably, Phase II-compliant handsets and corresponding switch upgrades are unavailable on a commercial basis. Moreover, based on CTI’s conversations with handset suppliers and switch vendors, and given the overwhelming number of Phase II waiver requests filed at the Commission, it is clear that no remedy to this situation will occur in the few days remaining before the October 1, 2001 Phase II compliance deadline.<sup>8</sup> The commercial unavailability of the necessary Phase II components, which can be characterized both as an “exceptional circumstance” and a “technological issue,” renders adherence to the October 1, 2001 deadline impossible.

Based on the foregoing, CTI submits that a limited waiver of the Phase II deadline comports with the policy objectives underlying Section 20.18(g) of the Commission’s

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<sup>7</sup> E911 Fourth MO&O, 15 FCC Rcd at 17457 (¶ 43) (citing Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, First Report and Order, 11 FCC Rcd 18676, 18710 (¶ 66), 18718 (¶ 84)).

<sup>8</sup> See, e.g., Verizon Wireless Updated Phase II E911 Report and Request for Limited Waiver, Revision of the Commission’s Rules to Ensure Compatibility With Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102 (filed July 25, 2001); Comments of AT&T Wireless Services, Inc., Revision of the Commission’s Rules to Ensure Compatibility With Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102 (filed Aug. 20, 2001); Qwest Wireless, LLC and TW Wireless, LLC’s Petition for Extension of Time or Waiver of Section 20.18 of the Rules, Revision of the Commission’s Rules to Ensure Compatibility With Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102 (filed July 23, 2001); Inland Cellular Telephone Co. Petition for Limited Waiver of Sections 20.18(e) and (g) of the Rules, Revision of the Commission’s Rules to Ensure Compatibility With Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102 (filed July 30, 2001).

Rules. Indeed, CTI affirms that it will deploy Phase II E911 services in Puerto Rico as soon as the necessary technology becomes commercially available. Further, CTI will continue to aggressively pursue Phase II implementation. A limited waiver will afford CTI time to purchase and test the hardware and software needed to implement an accurate, working handset-based solution. Finally, a limited waiver will not result in increased costs or other prejudice to Public Safety Answering Points (PSAPs) or the public safety community given that no PSAP in Puerto Rico has requested Phase II implementation.

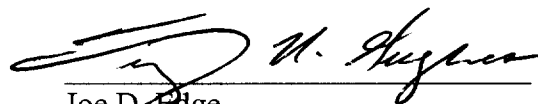
### **III. CONCLUSION**

For the reasons set forth above, CTI has reversed its plans to implement a network-based solution in favor of the AGPA/AFLT handset solution for Enhanced 911 Phase II location technology. However, the network upgrades and Phase II-capable handsets necessary for a handset-based solution will not be available in time to comply with Commission's current Phase II deadline. CTI therefore seeks a limited waiver of Section 20.18(g) of the Commission's Rules to deploy its preferred handset-based solution on a timeframe that comports with the release of the necessary technology. Specifically, CTI respectfully requests that the Commission waive its rules and provide CTI with: (1) an extension of the Phase II E911 implementation deadlines and handset milestones through November 1, 2002; and (2) approval of the following revised deadlines for implementing Phase II-compliant handset activations: 25% of new activations by July 31, 2002; 50% of new activations by March 31, 2003; 100% of new activations by December 31, 2003; and 95% of embedded base by December 31, 2005. In the event that Phase II-capable

handsets and network upgrades become readily available prior to CTI's proposed timeframes, CTI will revise its implementation deadlines accordingly.

Respectfully submitted,

**Celulares Telefónica, Inc.**

A handwritten signature in black ink, appearing to read "Timothy R. Hughes", is written over a horizontal line.

Joe D. Edge

Laura S. Gallagher

Timothy R. Hughes

Alisa M. Everts

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September 25, 2001



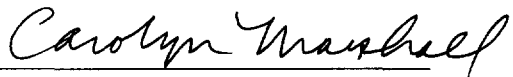
## CERTIFICATE OF SERVICE

I, Carolyn Marshall, certify that on this 25<sup>th</sup> day of September 2001, I caused to be delivered by hand the foregoing Celulares Telefonica, Inc's Petition for Limited Waiver of Section 20.18(g) of the Commission's Rules and Updated Phase II E911 Report to the following:

Ms. Magalie Roman Salas  
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